IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SECOND APPEAL No 572 of 1976
with
SECOND APPEAL No 573 of 1976

For Approval and Signature:

HON'BLE MR.JUSTICE R.K.ABICHANDANI Sd/-
and
HON'BLE MR.JUSTICE D.H.WAGHELA Sd/-

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

1 to 5 NO

DAHYABHAI PARSHOTTAMBHAI THAKKER
Versus
CHAMPABEN WIDOW OF MANEKLAL CHUNILAL

Appearance:
1. Second Appeal No. 572 of 1976
UNSERVED-EXPIRED (N) for Appellant No.
..... for Respondent No. 1
MR MUKUL SINHA for Respondent No. 1/1
SERVED BY RPAD - (R) for Respondent No. 1/2-1/3
2. Second Appeal No. 573 of 1976
UNSERVED-EXPIRED (N) for Appellant No.
..... for Respondent No. 1

CORAM : HON'BLE MR.JUSTICE R.K.ABICHANDANI

and

HON'BLE MR.JUSTICE D.H.WAGHELA

Date of decision: 06/09/2004

ORAL JUDGEMENT

(Per : HON'BLE MR.JUSTICE R.K.ABICHANDANI for the Court)

1. These two Second Appeals were ordered to be placed before Division Bench pursuant to the order dated 29.4.1980 of the learned Single Judge. It appears that during pendency of the Second Appeals, the learned counsel for the appellants passed away. Therefore, the Registry issued notices to the appellants in both these appeals. It is reported that in both these appeals notices have returned unserved with the remarks "Appellant has expired". Therefore, in both the appeals, the appellants have passed away. In Second Appeal No.572 of 1976, the bailiff's report dated 16.6.2003 shows that the appellant of the said appeal had passed away two years back, while in Second Appeal No.573 of 1976, the bailiff's report dated 16.6.2003 shows that the appellant had passed away ten years back.

2. No application has been made under Sub-Rule (1) of Rule 3 of Order XXII read with Rule 11 of Order XXII of the Code of Civil Procedure within the time limited by law for bringing in legal representatives of the deceased plaintiff to be made parties. Therefore, both these appeals have abated. Both the appeals are accordingly disposed of as having been abated. There shall be no order as to costs.

Sd/-

(R.K.Abichandani, J.)

Sd/-

(D.H.Waghela,J.)

(KMG Thilake)